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OFFICE OF PETITIONS

In re Application of
Maurizio Gazzola et al.
Application No. 10/602,503
Filed: June 24, 2003
Attorney Docket No. 0370.0747C

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed March 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

A Final Office Action was mailed December 20, 2006 setting a three month shortened statutory period for reply. No response having been filed, this application became abandoned, March 21, 2007. Accordingly, the Notice of Abandonment was mailed August 1, 2007.

The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of \$1620; and (3) an adequate statement of unintentional delay.

Since the response to the office action mailed December 20, 2006 has not been provided, this application is being revived for purposes of continuity only.

Since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.12/401,118 deposited March 10, 2009, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 2613 for processing of the continuation application filed March 10, 2009.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions